UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,410	01/26/2001	Ricardo V. Martija	APP 1210-US	6340

9941 7590 09/22/2004		EXAMINER	
TELCORDIA TECHNOLOGIES, INC.		NGUYEN, HANH N	
ONE TELCORDIA DRIVE 5G116			
PISCATAWAY, NJ 08854-4157		ART UNIT	PAPER NUMBER
		2662	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/771,410	MARTIJA ET AL.
	Examiner	Art Unit
	Hanh Nguyen	2662

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Application filed 1/26/01*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-15* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-3,5,8-12,14 and 15* is/are rejected.
7) ☒ Claim(s) *4,6,7 and 13* is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
            application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other

form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or

other form of browser-executable code. See MPEP § 608.01.

The specification discloses hyperlink forms on page 4, lines 26, 31; page 5, line 9; page

6, line 14; page 7, line 22; page 8, line 1; page 9, line 15; page 10, line 27. The hyperlinks should

be deleted.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

In claim 12, it is not clearly stated what is meant by "traffic model".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 5, 8, 11, 14 and 15 are rejected under 35 USC 102(b) as being anticipated

by Lewis et al. (Pat. 5,706,436).

In claim 1, 2, 3, 8, 11, 14 and 15, Lewis et al. discloses subnets 61 and 62 (first and

second region), each comprising hosts 64. Each host comprises a server (a host comprising a

server). The subnets are connected via trunk 63 (identifying link connecting the first region and

the second region). See Fig.6, line 3, line 64 to col.4, line 5. In Fig.8, a network monitor 514 (a

remote processor, see Fig.5) measures traffic between each pair of nodes (identifying last pair of

routers) determines partial traffic (used bandwidth) that occurs over the trunk 63 between the two

subnets over a period of time (determining used bandwidth of identified link over a period of

time) and determines the total traffic of the network at step 82 (determining network traffic

between the first and second region). See col.5, lines 25-33 & col.3, lines 45-55. The network

monitor comprises a CPU 91 (a processor) and a memory 92 (a memory). The CPU accesses

the instructions programmed in the memory to perform functions. See col.5, lines 50-60. The

average traffic over a time interval is also calculated (see col.4, lines 1-7).

In claim 5, the limitation of this claim has been addressed in claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

In claims 9, 10 and 12 are rejected under 35 USC 103(a) as being unpatentable over Lewis et al. (Pat. 5,706,436) in view of Mayton et al. (Pat. 6,763,380 B1).

In claim 9, Lewis does not disclose invoking a traceroute program at the processor to identify routers on respective routes. Mayton et al. disclose, in fig.2, a concole node 20 runs a traceroute to determine routing information in the network (invoking a traceroute to identify routers). See col.11, lines 60 to col.12, line 5. The console 20 can be located either remote from the endpoints or implemented in part on each of endpoints. See col.6, lines 10-20. Therefore, it would have been obvious to store the traceroute program in the network monitor 514 of the Lewis et al. to invoke the traceroute program with the purpose of identifying routers and determining used bandwidth of each link.

In claim 10, Lewis does not disclose invoking a getbandwidth program at the processor to determine used bandwidth. It would have been a well-known skills in the art to use the CPU to execute program instructions comprising routines stored in the memory in order to run the program.. Therefore, it would have been obvious to use the CPU of Lewis et al. to invoke the getbandwidth program with the purpose of determining used bandwidth of each link.

In claim 12, Lewis discloses determining network bandwidth within a region as described in claim 1, but does not disclose determining traffic model. Mayton et al. discloses the console node 20 analyses and measures communications traffic types. See col.7, line 60 to col.8, line 7. Therefore, it would have been obvious to one ordinary skill in the art to determine network traffic within the region based on the determined traffic model of Mayton et al.

Allowable Subject Matter

Claims 4, 6, 7 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In claim 4, the prior art does not disclose comparing the latitude and longitude of the selected routers in the first and the second regions with the retrieved topology information to identify links that connect the selected routers.

In claim 6, the prior art does not disclose multiplying the determined average of samples of used bandwidth by the period of time to determine the network traffic flowing between the first and the secon regions.

In claim 7, the prior art does not disclose multiplying the estimated total number of links by the determined used bandwidth to determine the network traffic flowing between the first and the second regions.

In claim 13, the prior art does not disclose multiplying the estimated number of hosts by the determined used bandwidth to determine the network traffic within the region.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ellesson et al. (Pat. 6,459,682 B1) discloses Architecture for Supporting Service Level Agreements in an IP Network.

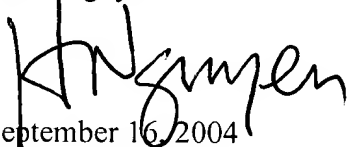Freen et al. (Pat. 5,959,985) discloses Multinetwork Architecture.

Nolting et al. (Pat. 6,721,405 B1) discloses Interconnect Traffic Analysis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092 The examiner can normally be reached on Monday-Friday from 8AM to 6PM. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on 571 272 3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen

September 16, 2004